

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05

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E.O. 11652: N/A

TAGS: ETRD, GATT, CA, EEC

SUBJECT: GATT COUNCIL: CANADA-EC DISPUTE ON ZINC

REF: GENEVA 10969

1. WE HAVE HAD FURTHER DISCUSSION WITH GATT SECRETARIAT AND A FEW INTERESTED DELS (SWISS, NORDICS, AUSTRALIA, AUSTRIA) CONCERNING GATT COUNCIL ITEM ON CANADA-EC DISPUTE. DELS WITH WHOM WE HAVE SPOKEN ARE RELUCTANT TO GET INVOLVED IN DISPUTE BETWEEN EC AND CANADA AND HOPE TO TAKE A NEUTRAL POSITION IN THE COUNCIL. THE GENERAL FEELING IS THAT THE PROBLEM SHOULD BE CARRIED OVER TO A SUBSEQUENT COUNCIL AND THAT THE TWO PARTIES SHOULD BE ASKED TO SEEK ONCE AGAIN TO FIND AN ACCOMMODATION.

2. ON QUESTION OF REFERRING EC INTERPRETATION OF LAST
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PARAGRAPH OF PANEL REPORT BACK TO PANEL FOR CLARIFICATION, DELS WITH WHOM WE HAVE SPOKEN ARE OPPOSED. GATT SECRETARIAT DISLIKES THIS OPTION ALSO AND POINTS OUT THAT PREVIOUS PANEL NO LONGER EXISTS AND NEW PANEL WOULD NEED TO BE ESTABLISHED TO ANSWER QUESTION. CONCEIVABLY, THE NEW PANEL COULD CONSIST OF THE SAME MEMBERS AS THE ORIGINAL PANEL, BUT WE UNDERSTAND FROM INFORMAL DISCUSSIONS

THAT PREVIOUS PANEL MEMBERS WILL REFUSE TO SERVE ON RECONSTITUTED PANEL. EVIDENTLY, AT LEAST ONE MEMBER OF THE PANEL WAS SUBJECTED TO WHAT HE CONSIDERS UNUSUAL AND UNFAIR PRESSURE FROM THE EC. ALSO, PANEL EVIDENTLY WEIGHED LAST PARAGRAPH VERY CAREFULLY WORD BY WORD AND KNOWS EXACTLY WHAT IT INTENDED TO SAY AND INTENDED TO SAY NO MORE. WE CONTINUE TO AGREE WITH THE SECRETARIAT AND OTHER DELS WHO VIEW ESTABLISHMENT OF A NEW PANEL TO EVALUATE OR INTERPRET THE RESULTS OF A PREVIOUS PANEL AS SETTING AN UNDESIRABLE PRECEDENT. IN EFFECT, IF SUCH A PRECEDENT IS FOLLOWED, A COUNTRY WHICH DISLIKED THE FINDINGS OF A PANEL COULD, BY RAISING QUESTIONS OF INTERPRETATION, REOPEN THE QUESTION. WE CONTINUE TO BELIEVE QUESTION MUST BE SETTLED BETWEEN THE TWO DISPUTANTS IF AT ALL POSSIBLE. AT THIS STAGE WE THEREFORE RECOMMEND THAT U.S. DEL OPPOSE ANY EFFORT TO ESTABLISH A PANEL OR OTHER GROUP TO LOOK INTO THE QUESTION OF INTERPRETATION OF ORIGINAL PANEL'S REPORT.

3. WE DISCUSSED SEVERAL POSSIBLE SCENARIOS WITH CANADIAN DEL, AND HE INDICATED THAT CANADA'S PREFERENCE IS FOR MATTER TO BE CARRIED OVER TO NEXT MEETING OF COUNCIL. HE POINTS OUT THAT EC AND CANADA HAVE NOT REALLY HELD SERIOUS DISCUSSIONS ON MATTER AS DIRECTED BY LAST COUNCIL MEETING. ONLY CONTACT HAS BEEN AN INFORMAL MEETING BETWEEN EASTMAN OF CANADA AND ABBOTT OF EC DEL. CAN DEL LIMITED OFFICIAL USE

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WILL TAKE RATHER RIGID STAND AT JULY 24 COUNCIL, AND WOULD OPPOSE ANY ATTEMPT TO RESUBMIT PANEL REPORT TO OLD OR NEW PANEL ON BASIS THAT REPORT HAS BEEN COMPLETED AND ADOPTED BY COUNCIL. CAN DEL WOULD NOT, HOWEVER, RESIST STATEMENT BY GATT DG ON MATTER IF QUESTION PUT TO HIM, ALTHOUGH CANADIANS HAVE LITTLE ENTHUSIASM FOR SUCH A PROCEDURE. CANADA'S UNDERSTANDING IS THAT DG WOULD BE ASKED FOR OPINION RATHER THAN CHAIRMAN OF THE COUNCIL AND THAT, IF ASKED, LONG WOULD CAREFULLY STRADDLE THE QUESTION BY NOT GOING FURTHER THAN THE PANEL'S REPORT. CAN DEL'S UNDERSTANDING, HOWEVER, CONFLICTS WITH WHAT SECRETARIAT HAS TOLD US, WHICH IS THAT DG LONG, AFTER POINTING OUT THAT DESIRABLE SCENARIO WOULD BE FOR DELS TO LOOK AT QUESTION OF COMPENSATION AGAIN AS PANEL CLEARLY DESIRED, WOULD SAY THAT EC HAS RIGHT TO ACCEPT RETALIATION. SINCE, IN THIS CASE, PANEL HAD CLEARLY INDICATED THAT CANADIAN WITHDRAWALS WERE EXCESSIVE, CANADA WOULD NEED TO REDUCE EXTENT OF WITHDRAWALS.

4. BECAUSE OF LUYTEN'S PERSONAL STAKE IN THIS ISSUE, SEVERAL DELS AND SECRETARIAT EXPECT THAT HE WILL ATTEMPT TO OBTAIN SUPPORT FOR HIS POSITION FROM ASSOCIATED STATES

SUCH AS GREECE AND TURKEY. WE BELIEVE, HOWEVER, THAT
NORDICS AND SWISS WOULD SUPPORT U.S. IF WE WERE TO RECOM-
MEND THAT MATTER BE CARRIED OVER TO SUBSEQUENT MEETING
ON BASIS THAT THE TWO PARTIES HAD NOT HAD SUFFICIENT TIME
SINCE LAST COUNCIL TO NEGOTIATE ON ISSUE BECAUSE OF
PREPARATIONS FOR AND PREOCCUPATION WITH MTN.
VANDEN HEUVEL

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